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**UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF PENNSYLVANIA**

MICHAEL SCAVO, individually and on behalf of all others similarly situated,) Case No. 2:17-cv-03899-GEKP
) <u>CLASS ACTION</u>
Plaintiff,)
) FIRST AMENDED COMPLAINT
vs.) FOR VIOLATIONS OF:
)
ACCOUNT DISCOVERY SYSTEMS, LLC, and DOES 1 through 10, inclusive, and each of them,) 1. COMPLAINT FOR VIOLATION OF FEDERAL FAIR DEBT COLLECTION PRACTICES ACT
) <u>DEMAND FOR JURY TRIAL</u>
Defendant.)
)
)
)

Plaintiff MICHAEL SCAVO ("Plaintiff"), individually and on behalf of all others similarly situated, alleges the following upon information and belief based upon personal knowledge:

NATURE OF THE CASE

1. Plaintiff brings this action individually and on behalf of all others similarly situated seeking damages and any other available legal or equitable remedies resulting from the illegal actions of ACCOUNT DISCOVERY SYSTEMS, LLC ("Defendant").

JURISDICTION & VENUE

2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff, a Pennsylvania resident, seeks relief on behalf of a Class, which will result in at least one class member belonging to a different state than that of Defendant, an New York company. Plaintiff also seeks up to \$1,500.00 in damages for each call in violation of the TCPA, which, when aggregated among a proposed class in the thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both diversity jurisdiction and the damages threshold under the Class Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

3. Venue is proper in the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does business within the State of Pennsylvania and Plaintiff resides within Delaware County in the State of Pennsylvania.

PARTIES

4. Plaintiff, MICHAEL SCAVO (“Plaintiff”), is a natural person residing in Delaware County, Pennsylvania and is a “person” as defined by 47 U.S.C. § 153 (39).

5. Defendant, ACCOUNT DISCOVERY SYSTEMS, LLC (“Defendant”) is a debt collection company, and is a “person” as defined by 47 U.S.C. § 153 (39).

6. The above named Defendant, and its subsidiaries and agents, are collectively referred to as “Defendants.” The true names and capacities of the Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by fictitious names. Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the Complaint to reflect the true names and capacities of the DOE Defendants when such identities become known.

1 7. Plaintiff is informed and believes that at all relevant times, each and
2 every Defendant was acting as an agent and/or employee of each of the other
3 Defendants and was acting within the course and scope of said agency and/or
4 employment with the full knowledge and consent of each of the other Defendants.
5 Plaintiff is informed and believes that each of the acts and/or omissions complained
6 of herein was made known to, and ratified by, each of the other Defendants.

7 **FACTUAL ALLEGATIONS**

8 8. Beginning within the last year, Defendant contacted Plaintiff on
9 Plaintiff's cellular telephone number ending in -8055, in an attempt to collect on
10 an alleged debt.

11 9. Defendant called Plaintiff multiple times in connection with collection
12 on an alleged debt.

13 10. Defendant left Plaintiff several voice messages with call back
14 numbers, including without limitation, (716) 562-3709.

15 11. Defendant called and left voice messages on the telephones of third
16 parties, including without limitation, Plaintiff's mother, in connection with
17 collection on the alleged debt from Plaintiff.

18 12. Defendant placed multiple collection calls to Plaintiff on his cellular
19 telephone ending in -8055 within the last year.

20 13. Plaintiff received numerous collection calls from Defendant within a
21 12-month period.

22 14. Defendant contacted Plaintiffs in a manner that would constitute
23 harassment, annoyance, and abuse.

24 15. Defendant contacted Plaintiffs at times known to be inconvenient for
25 Plaintiff.

26 16. Defendant caused Plaintiffs' telephone to ring in a manner that would
27 constitute harassment.

28 17. Defendant denies doing anything wrong.

1 18. Defendant's conduct violated the FDCPA in multiple ways, including
2 but not limited to:

- 3 a. Causing a telephone to ring repeatedly or continuously to annoy
4 Plaintiff (Cal Civ Code §1788.11(d));
- 5 b. Communicating, by telephone or in person, with Plaintiff with such
6 frequency as to be unreasonable and to constitute an harassment to
7 Plaintiff under the circumstances (Cal Civ Code §1788.11(e));
- 8 c. Causing Plaintiffs telephone to ring repeatedly or continuously
9 with intent to harass, annoy or abuse Plaintiff (§1692d(5)); and
- 10 d. Communicating with Plaintiff at times or places which were
11 known or should have been known to be inconvenient for Plaintiff
12 (§1692c(a)(1)).

13
14
15 **COUNT I: VIOLATION OF FAIR DEBT**
16 **COLLECTION PRACTICES ACT**

17 19. Plaintiff reincorporates by reference all of the preceding paragraphs.

18 **JURY DEMAND**

19 20. Pursuant to the Seventh Amendment to the Constitution of the United
20 States of America, Plaintiff is entitled to, and demands, a trial by jury.

21 Respectfully Submitted this 20th Day of October, 2017.

22 LAW OFFICES OF TODD M. FRIEDMAN, P.C.

23
24 By: /s Cynthia Z. Levin
25 Cynthia Z. Levin, Esq.
26 Law Offices of Todd M. Friedman, P.C.
27 Attorney for Plaintiff
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PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business Address is 21550 Oxnard St., Suite 780 Woodland Hills, CA 91367.

On October 20, 2017, I served the following document(s) described as: **FIRST AMENDED COMPLAINT** on all interested parties in this action by placing:

- ☒ A true copy
☐ the original thereof enclosed in sealed envelope(s) addressed as follows:

Brendan H. Little
 Lippes Mathias Wexler Friedman LLP
 50 Fountain Plaza, Suite 1700
 Buffalo, NY 14202

Eastern District of Pennsylvania U.S.
 Courthouse 601 Market Street, Room
 2609 Philadelphia, PA 19106-1797

- ☐ BY FACSIMILE – The facsimile machine used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2008(e)(4), caused the machine to print a record of the transmission.
- ☐ BY ELECTRONIC SERVICE – I transmitted a PDF version of this document by electronic mail to the party(s) identified above using the e-mail address(es) indicated..
- ☒ BY MAIL I deposited such envelope in the mail at Woodland Hills, California. The envelope was mailed with postage thereon fully prepaid. I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Woodland Hills, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than (1) day after date of deposit for mailing in affidavit..
- ☒ STATE – I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 20, 2017, at WOODLAND HILLS, California.

By: _____

Yoel S. Hanohov